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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/745,651	12/22/2000	Glenn D. Kirwin	CF/013	1536
1473	7590	01/28/2004	EXAMINER	
FISH & NEAVE 1251 AVENUE OF THE AMERICAS 50TH FLOOR NEW YORK, NY 10020-1105			KYLE, CHARLES R	
			ART UNIT	PAPER NUMBER
			3624	

DATE MAILED: 01/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/745,651

Applicant(s)

KIRWIN ET AL.

Examiner

Charles R Kyle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 8,9. 6) ☐ Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Drawings***

The drawings received April 5, 2001 are approved.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claims 33-36** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. They recite the phrase “an appearance substantially similar to the tradable data item data display”. One of ordinary skill in the art of electronic trading would not know what constitutes substantial similarity of the displays.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

**Claims 33-35** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 33-35 recite no feature which places them in technological arts. All steps of the methods can be performed in non-technological ways.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-8, 10-11, 13-26, 28-29 and 31-34** are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 6,014,643 *Minton* in view of EP 0 665 489 A2 *Robertson et al.*

**As to Claim 1**, *Minton* discloses the invention substantially as claimed, including in a method of submitting a trading command in an electronic trading system, the steps of:

Receiving a submission of a bid, offer, buy or sell command from a trader (Col. 8, lines 8-21);

Positioning a pointing device pointer (Col. 6, lines 1-9; Fig 2.) over a button in an interactive trading interface corresponding to the bid, offer, buy or sell command (Col. 9, lines 19-25; Fig. 4, elements 418 and 426);

Receiving a selection from the trader to confirm the submission (Col. 12, lines 39-49);  
and

Submitting the bid, offer, buy or sell command in response to the selection by the trader (Col. 12, lines 39-49).

In this instance, buy and sell orders are read as market orders; bids and offers are read as limit orders.

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*Minton* does not specifically disclose automatic repositioning of the pointing device pointer over a button. *Robertson* discloses this feature at Abstract and Col. 1, line 35 to Col. 2, line 29. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the trading method of *Minton* with the addition of the automatic positioning feature of *Robertson* because this would have avoided additional manipulation of the pointing device. This advantage is specifically disclosed by *Robertson* at Col. 9, lines 53-57 and quoted below:

*The system improves the efficiency of operation and enhances the functionality of cursor movement by positioning the cursor at a location that permits the user to perform additional functions without additional manipulation of the cursor control device 18.*

**Concerning Claim 2,** *Minton* further discloses displaying current bid and offer data at Fig. 4. At Fig. 6, elements 620, 622 and 624 and Fig. 7, elements 720, 722 and 724, *Minton* discloses pieces of bid and offer data. It would have been obvious to one of ordinary skill in the art at the time the invention was made to receive a selection of a piece of bid and offer data as a submission of an order because this would have realized the improved efficiency of reduced pointing device movement cited in the paragraph quoted above.

**With respect to Claim 3,** both cited references fail to teach coloring of selected data. Official Notice is taken that coloring of fields for selection by a pointing device was old and well known and that it would have been an obvious to modify *Minton* to include a step of data coloring to draw a trader's eye to important fields.

**As to Claim 4,** *Minton* discloses bids/limit orders; these are specifically disclosed at Fig. 6, element 622. Submitting a bid as selection of this field would have been obvious because this

would have realized the improved efficiency of reduced pointing device movement cited in the paragraph quoted above.

**As to Claim 5**, *Minton* discloses offers as limit orders; these are specifically disclosed at Fig. 7, element 722. Submitting an offer as selection of this field would have been obvious because this would have realized the improved efficiency of reduced pointing device movement cited in the paragraph quoted above.

**With respect to Claims 6 and 7**, see the discussion of Claims 4 and 5 and note that *Minton* discloses buy and sell commands as market orders at Col. 9, lines 31-36.

**Concerning Claim 8**, see the discussion of Claim 2 and note that *Minton* discloses the elements of a market cell at Fig. 4.

**With respect to Claims 10 and 11**, *Minton* discloses data and entry windows as Fig. 4. For entry features see Fig. 4, elements 418 and 426.

**With respect to Claim 13**, *Minton* discloses the use of a keyboard at Col. 3, line 65 to Col. 4, line 29.

**Concerning Claim 14**, *Robertson* discloses automatic display of a second interface at Abstract. It would have been obvious to one of ordinary skill in the art at the time the invention was made to displayed a second trading interface in this manner because this would have speeded the processing of order placement.

**As to Claims 15-18**, *Minton* discloses the buttons recited as set forth above. It would have been obvious to one of ordinary skill in the art at the time the invention was made to automatically reposition a device pointer as disclosed by *Robertson* so as to allow for immediate selection of the button without requiring device movement.

**As to Claim 19**, see the discussion of Claim 1 above. Minton further discloses first and second trading interfaces at Figs. 4 and 5 and Col. 10, lines 28-53. See also *Robertson* at Abstract, where first and second interfaces are disclosed.

**Concerning Claims 20-26**, see the discussions of Claim 19 and Claims 2-8.

**As to Claim 28-29**, see the discussion of Claim 19 and Claims 10-11.

**Concerning Claims 31-32**, see the discussions of Claim 19 and Claims 13-14.

**With respect to Claim 33**, see the discussion of Claim 1 above and note that *Robertson* discloses a second window, read as substantially similar to a first window, at Abstract.

**Concerning Claim 34**, see the discussions of Claims 33 and 10.

**Claims 9, 12, 27, 30, 35 and 36** are rejected under 35 U.S.C. 103(a) as being unpatentable over *Minton* and *Robertson et al* as set forth above, and further in view of *Harrington et al*.

**With respect to Claim 9**, see the discussions set forth above. The previously cited references do not specifically disclose bid and offer data in the form of a spreadsheet. *Harrington* discloses this feature for securities trading at Col. 9, lines 4-11. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the spreadsheet presentation of data disclosed by *Harrington* in combination with *Minton* because this would have provided an inexpensive and flexible way to present such data.

**Concerning Claim 12**, see the discussion of Claim 9 and *Harrington* further discloses use of web pages at Col. 6, lines 37-65 and Fig. 11. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the web page

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presentation of data disclosed by *Harrington* in combination with *Minton* because this would have provided an widely accessible way to present such data.

**As to Claims 27, 30, 35 and 36**, see the discussion of the claim from each which depends and the discussion of Claims 9 and 12 above.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. They are cited for their teachings on electronic trading.

US 6,421,653	May	07-2002
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US 6,195,647	Martyn et al.	02-2001
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles R Kyle whose telephone number is (703) 305-4458. The examiner can normally be reached on M-F 6:00-2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent A Millin can be reached on (703) 308-1065. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Examiner Charles Kyle



crk  
January 21, 2004